

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
March 11-15, 2002

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
3-11	EX	75/554,641	Ralph E. Hayes, Jr. and Gregory K. Clodfelter, dba Alpha Consulting	Seeherman* Hohein Walters	whether applicant's description of its mark unacceptably encompasses more than the single mark shown in its drawing	Refusal Affirmed		<i>a mark consisting of</i> “the colors red, green, and amber used as a color scheme on reporting charts to correspond with performance ratings within selected categories of performance,” <i>but</i> “no claim is made to a particular pattern of the three colors”		T. Rupp	Yes
3-11	EX	75/628,844	Trans Continental Records, Inc.	Simms Cissel Seeherman*	Section 6 disclaimer requirement (of term O-TOWN)	Refusal Reversed		“O-TOWN RECORDS INCORPORATED” (and design) [pre-recorded compact discs, audio cassettes, and video cassettes featuring pop music; jewelry; paper goods and printed matter, namely, posters, bookcovers, postcards and unmounted photographs; leather goods, namely, backpacks and fanny packs; clothing, namely, hats, t-shirts, and jackets; and entertainment in the nature of live performances by a pop musical group]		S.K. Lawrence	Yes
3-12	EX (R)	75/533,137	The Hermitage Group, Inc.	Quinn* Holtzman Drost	2(a) [false suggestion of a connection]	Request for Reconsideration Denied (Refusal Affirmed)		“HERMITAGE” (and design incorporating an artist's palette and brushes) [printed art reproductions]		Luthey	No

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3-12	EX	75/797,810	Q-Sport, LLC	Hanak Chapman Holtzman*	2(d)	Refusal Reversed		"QRUZING" [clothing in the nature of sports and leisure clothing, namely, pants, t-shirts, jerseys, sweatshirts, sweat pants, polo shirts, shorts, jackets, socks, sweatbands, and warm-up suits]	"JUST CRUISING" (and design) [clothing, namely, skirts, shorts, mini skirts, pants, tops, blouses, shirts, vests, long dresses, short dresses, gowns, and rompers]	R. Clark	No
3-12	EX	75/814,381	The Valspar Corp.	Simms Seeherman* Chapman	2(d)	Refusal Reversed (as to both cited registrations)		"ELECTROGARD" [protective and decorative coatings applied by electro-deposition application in the nature of industrial finishes]	"ELEKTROGUARD" [silicone elastomers for electrical coatings potting compounds, encapsulants and silicone gels; "ELECTRI-GUARD" [anti-corrosion coating for the protection of electrical connections]	B. Rupp	No
3-12	EX	75/816,459	Matthew J. Davenport	Hairston* Chapman Drost	2(d); whether applicant's recitation of services require amendment; Section 6 disclaimer requirement (of the word ENTERTAINMENT)	Refusal Affirmed on all grounds		"RAIN ENTERTAINMENT" [entertainment services, namely, audio recording and production, music publishing, and artist representation and management services for others]	"RAIN" [entertainment services in the nature of a musical band]	Front	No
3-12	EX	75/644,652	White Toque, Inc.	Seeherman Bucher* Botorff	genericness	Refusal Affirmed		"HARICOTS VERTS" [string beans]		Loughran	No

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3-12	EX	75/845,967	RDP Technologies, Inc.	Quinn Hohein Hairston*	2(e)(1)	Refusal Affirmed		"ORGANIC LIME" [fertilizers for domestic use, horticultural or agricultural use; potting soil and soil conditioners for agricultural, domestic and horticultural use]		French	No
3-12	EX	75/462,453	CML Northern Blower Inc.	Seeherman Holtzman* Drost	2(e)(1)	Refusal Reversed		"FANFINDER" [computer software for use in identifying industrial fan specifications, output performance, efficiency, sound power, and pressure levels for use in fan selection]		Smiga	No
3-13	EX EX	75/559,419 75/559,420	Nevin Wayne Fouts	Cissel Quinn* Chapman	2(e)(1)	Refusal Affirmed in both cases		"E-NOTE" and "ENOTE" [both marks for portable wireless modem-equipped digital processing and display apparatus linkable to a local area network, and corresponding local area network equipment, namely, such portable apparatus]		Tingley	No
3-13	OPP	112,967	Sibley's Shoes, Inc. v. Propet USA, Inc.	Hanak Wendel Bottorff*	2(d); counterclaim asserting abandonment and genericness	Opposition Dismissed; Counter-claim for Cancellation Denied	"TRAVELERS" (and design) [shoes]	"TRAVELWALKER" [sport shoes]			No
3-14	EX	75/763,106	Smart Belt Corp. of America	Hanak Walters Chapman*	2(e)(1)	Refusal Reversed		"SMART BELT" [packaging machines for use in the food packaging industry]		Gaynor	No

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3-14	EX	75/866,749	Allina Health System	Walters Bucher Drost*	2(d); 2(e)(2)	Refusal Affirmed (on both grounds)		"AMERICAN HEART INSTITUTES" [cardiovascular health care services]	<i>4 cited registrations owned by the same entity:</i> "AMERICAN HEART ASSOCIATION" and "AMERICAN HEART ASSOCIATION" (and design) <i>[both marks for association services in the field of prevention and treatment of heart disease];</i> "AMERICAN HEART ASSOCIATION" and "AMERICAN HEART ASSOCIATION" (and design) <i>[both marks for educational computer software in the field of cardiovascular health, fitness, nutrition, and/or prevention or reduction of cardiovascular disease and stroke; printed pamphlets and other items relating to the promotion of cardiovascular health, etc.; charitable fundraising services, etc.; educational services, namely, (cont'd next page)]</i>	Fink	No

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<i>cont'd from previous page</i>	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>		<i>cont'd from previous page</i>	<i>cont'd from previous page:</i> conducting seminars relating to cardiovascular health, <i>etc.</i> ; promoting public awareness of cardiovascular health, <i>etc.</i>] <i>one additional cited registration, owned by an entity different from the owner of the 4 preceding cited registrations:</i> "MID AMERICA HEART INSTITUTE" [hospital and health care services]	<i>cont'd from previous page</i>	<i>cont'd from previous page</i>
3-14	EX	75/752,808	Louis Upkins	Hohein Chapman Bottorff*	2(d)	Refusal Affirmed		"TEAM 316" [men's and women's clothing, namely, shirts, pants, jackets, sweaters, sweatshirts, socks, shoes, and hats]	oval design mark incorporating "316" and the lower case letter "j" [clothing, namely, t-shirts, sweatshirts, sweatpants, hats, shirts and pants]	Marcus	No
3-14	EX	75/938,994	Boot Royalty Co., L. P.	Simms Cissel Hanak*	2(e)(1)	Refusal Affirmed		"PRESSURE BALANCE ORTHOTIC" [orthopedic insoles sold separately; orthopedic insoles sold as an integral part of boots and shoes]		B. Rupp	No

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3-14	EX	75/679,267	Dr. Mitchell Swartz	Quinn Bottorff Drost*	2(d)	Refusal Affirmed		"SUN-BUG" [sun screen containing insect repellant]	"SUN & BUG STUFF" [insect repellant containing sunscreen]	B. Rupp	No
3-15	CANC	25,720	Midmark Corp. v. Ritter-IBW Dental-systeme GmbH	Simms Quinn* Hohein	abandonment	Petition to Cancel Granted		"RITTER" (in stylized lettering) [dental, medical and surgical equipment and appliances; <i>etc.</i>]			No
3-15	EX	75/524,079	Toma Industries, Inc.	Simms* Quinn Rogers	2(d)	Refusal Affirmed		"MAGIC LASH" [eye liner and synthetic fibers applied to eyelashes to increase length and fullness]	"CILS MAGIQUE" [cosmetics, namely, mascara]	McCray	No
3-15	EX	75/932,704	4YourParty.com, LLC	Chapman* Holtzman Rogers	2(e)(1)	Refusal Affirmed		"4YOURPARTY.COM" [distributorship services in the field of party and catering supplies]		Maciol	No

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